



Office of the Attorney General
State of Texas

June 29, 1993

DAN MORALES
ATTORNEY GENERAL

Ms, Sharon Gillespie
Assistant General Counsel
Texas Department of Banking
2601 North Lamar Boulevard
Austin, Texas 78705-4294

OR93-372

Dear Ms. Gillespie:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19328.

You explain that the Texas Department of Banking (the department) has received an open records request for "copies of all nonconfidential sections of the applications submitted" to the department in connection with the mergers of certain banks in Texas. You state that although the department has released to the requestor some information pertaining to those mergers, you seek to withhold other information pertaining to the financial condition of the banks at issue pursuant to article 342-210(a), V.T.C.S., and sections 3(a)(1), (10), and (12) of the Open Records Act.

Section 3(a)(12) protects:

information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act.

The purpose of section 3(a)(12) is to protect certain financial information from disclosure. Section 3(a)(12) applies to entities like the department that regulate "financial institutions" such as banks and excepts from required public disclosure specific information generated during the regulation or supervision of those institutions. *See, e.g.* Open Records Decision Nos. 483 (1987); 261 (1980). In Open Records Decision No. 483, this office held that section 3(a)(12) protects information that directly or indirectly reveals a specific entity's financial condition. For example, this office has determined

that the balance sheet of a financial institution is within the exception. Open Records Decision No. 28 (1974); *see also* Open Records Decision No. 187 (1978).

The records that you submitted to this office outline in detail the financial operations or condition of the banks at issue. After reviewing these records, we conclude that all of these records "relate" to operation or condition reports prepared for the use of the department in connection with the bank mergers. *See, e.g.,* V.T.C.S. art. 342-308 (authorizing banking commissioner to investigate financial condition of merging banks). The department therefore may withhold these records pursuant to section 3(a)(12); consequently, *this office need not consider your arguments as to the applicability of the other exceptions to disclosure that you raise.*

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/jmn

Ref.: ID# 19328
ID# 19365

cc: Ms. Kathy Parker
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(w/o enclosures)